

PATENT

Serial No. 10/536,840

Amendment in Reply to Office Action of July 28, 2008

REMARKS

This Amendment is being filed in response to the Office Action mailed July 28, 2008, which has been reviewed and carefully considered. Reconsideration and allowance of the present application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-3 and 5-9 remain in this application, where claims 4 and 10 have been canceled without prejudice and claim 1, 5 and 6 are independent. Applicants reserve the right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or continuing applications.

By means of the present amendment, the current Abstract has been deleted and substituted with the enclosed New Abstract which better conforms to U.S. practice.

In the Office Action, the Examiner indicated that two references (US 6,124,988 and EP 0,865,037) cited in the International Search Report have been considered but will not be listed on any resulting patent since they were not submitted with

an Information Disclosure Statement. Applicants thank the Examiner for the reminder and will consider filing an Information Disclosure Statement. It should be noted that that any duty to disclose has been satisfied since the references have already been considered as indicated by the Examiner and/or since these references are of category "A", "defining general state of the art which is not considered to be of particular relevance".

In the Office Action, the Examiner indicated that the title of the invention is not sufficiently descriptive, and required a new title. In response, the current title has been deleted and substituted with a new title which is clearly indicative of the invention to which the claims are directed.

In the Office Action, the Examiner indicated that claims 1-3 are allowed and that claim 6 would be allowable if rewritten in independent form. Applicants gratefully acknowledge the indication that claims 1-3 are allowed and that claim 6 contain patentable subject matter. By means of the present amendment, claim 6 has been rewritten in independent form. Accordingly, it is respectfully requested that independent claim 6 be allowed.

In the Office Action, claim 5 is rejected under 35 U.S.C. §102(b) as allegedly unpatentable over U.S. Patent No. 5,737,294 (Yamakawa). Claims 7-9 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Yamakawa. It is respectfully submitted that claims 5 and 7-9 are patentable over Yamakawa for at least the following reasons.

Yamakawa is directed to an objective lens 8 having two regions of different numerical apertures for reading/writing two optical discs, namely, a mid part region 8a and a rim part region 8b. As specifically recited in Table 1, the numerical aperture of the mid (or central) part region 8a NA_{mid} is 0.35, and the numerical aperture of the rim (or peripheral) part region 8b NA_{rim} is 0.65. That is, NA_{mid} (of 0.35) is less than NA_{rim} (of 0.65). Claims 4, 7 and 13 originally recited incorrectly that $NA_{mid} > NA_{rim}$. However, as this is incorrect and has no support in the specification, Yamakawa was corrected in a Re-Examination Certificate issued showing deletions in bracket and additions in italic, where claims 4, 7 and 13 are corrected to recite that $NA_{mid} < NA_{rim}$ in accordance with the specification, such as Table 1.

In stark contrast, the present invention as recited in independent claim 5, recites (illustrative emphasis provided) :

annular part (101, 201) having a first numerical aperture and a central part (102, 203) having a second numerical aperture, wherein the second numerical aperture is higher than the first numerical aperture.

It is respectfully submitted that having $NA_{mid} < NA_{rim}$ of Yamakawa teaches away from $NA_{central} > NA_{annular}$, as recited in independent claim 5. Accordingly, it is respectfully submitted that independent claim 5 are allowable, and allowance thereof is respectfully requested. In addition, it is respectfully submitted that claims 7-9 should also be allowed at least based on their dependence from independent claim 5.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

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In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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October 27, 2008

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